



## Filing Receipt

**Received - 2021-12-17 03:19:13 PM**  
**Control Number - 52786**  
**ItemNumber - 12**

**PROJECT NO. 52786**

<b>ERCOT COMPLIANCE REPORTS OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>GENERATION RESOURCE WINTER</b>	<b>§</b>	
<b>READINESS PURSUANT TO 16 TAC</b>	<b>§</b>	<b>OF TEXAS</b>
<b>§ 25.55(C)(4)</b>	<b>§</b>	

**NOTICE OF DISAGREEMENT WITH MIDWAY WIND LLC'S  
ASSERTION OF GOOD CAUSE**

The Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) files this notice of disagreement with Midway Wind LLC (Midway Wind)'s assertion of good cause for non-compliance with the Commission's weatherization rules submitted under 16 Texas Administrative Code (TAC) § 25.55(c)(6)(A). Commission Staff hereby provides this notice of disagreement as required under 16 TAC § 25.55(c)(6)(B).

**I. BACKGROUND**

Midway Wind is a power generation company (PGC) registered with the Commission under PGC registration number 20379. On December 1, 2021, Midway Wind submitted a winter weather readiness report (WWRR) for one or more generation resources to the Electric Reliability Council of Texas (ERCOT) in compliance with 16 TAC § 25.55(c)(2). At least one of Midway Wind's reports included one or more assertion(s) of good cause for non-compliance with the Commission's weatherization requirements established under 16 TAC § 25.55(c)(1).

Under 16 TAC § 25.55(c)(6)(B), Commission Staff and ERCOT are required to expeditiously review assertions of good cause submitted under 16 TAC § 25.55(c)(6)(A) in order to determine whether good cause for non-compliance reasonably exists. To the extent Commission Staff disagrees with an assertion of good cause, Commission Staff is required to file a notification of its disagreement in this project.

**II. DISAGREEMENT WITH ASSERTION OF GOOD CAUSE**

Commission Staff and ERCOT have reviewed the WWRR submitted Midway Wind to ERCOT on December 1, 2021. Commission Staff hereby notifies Midway Wind of disagreement with the following assertion of good cause:

- **Generation Resource MIDWIND – UNIT1:** In the WWRR for generation resource MIDWIND – UNIT1, Midway Wind asserted good cause for non-compliance with one or more outstanding weatherization requirements under 16 TAC § 25.55(c)(1)(A). However, Midway Wind failed to provide sufficient supporting documentation for its request, did not provide a description of its efforts to comply with the outstanding weatherization requirements, and did not provide specific plans and timelines for its compliance with the outstanding weatherization activities. Accordingly, Commission Staff disagrees with the above-described good cause assertions.

### III. NOTICE

As established under 16 TAC § 25.55(c)(6)(C), within seven days of receiving this notice,<sup>1</sup> Midway Wind must provide the Commission with proof of compliance with the above-described weatherization requirements or, alternatively, may preserve the disputed good cause assertions by submitting to the Commission a request for approval of a good cause exception. The request for approval must contain all information required under 16 TAC § 25.55(c)(6)(E).

Commission Staff is aware that the contact information for the authorized representative listed for Midway Wind in the Commission's records is out of date.<sup>2</sup> Accordingly, Commission Staff has provided a copy of this notice to Midway Wind by e-mail to Lourdes Spurlock, the representative that submitted the WWRR to ERCOT, at [lourdes.spurlock@apexcleanenergy.com](mailto:lourdes.spurlock@apexcleanenergy.com).

### IV. INVESTIGATION OPENED

Midway Wind is hereby notified that Commission Staff has opened an investigation into to Midway Wind's compliance with 16 TAC § 25.55(c), concerning winter weather emergency preparedness, under investigation record number 2021120013.

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<sup>1</sup> Seven days from the date this notice was filed is December 24, 2021, which is an agency holiday. The next day the Commission is open for business is Wednesday, December 29, 2021. Therefore, under 16 Tex. Admin. Code (TAC) § 22.4(a), the deadline to respond to this notice is December 29, 2021.

<sup>2</sup> The authorized representative listed under Midway Wind's PGC registration number in the Commission's records is Mr. William Pezalla. Commission Staff is aware that Mr. Pezalla has not worked for Midway Wind or its parent company, Apex Energy, in at least three years. Midway Wind's failure to amend its PGC registration to reflect its current contact information is a violation of 16 TAC § 25.109(h), which requires a PGC to report any change to the information in its registration form with 45 days of the change. Midway Wind may avoid Commission enforcement of this additional, continuing violation by filing an application to amend its PGC registration to reflect its current contact information by January 7, 2022. If Midway Wind fails to file an application to amend its PGC registration by January 7, 2022, Commission Staff will proceed with this additional enforcement action.

Commission Staff notes that, under PURA § 15.023(b-1), the Commission is authorized to impose administrative penalties of up to \$1,000,000 per violation per day for violations of rules established under PURA § 35.0021. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. To the extent that Midway Wind fails to timely provide proof of compliance or file a request for approval of a good cause exception, Midway Wind will be in violation of 16 TAC § 25.55 and therefore eligible for the maximum administrative penalty allowed by law.

Dated: December 17, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS**

**COMPLIANCE AND ENFORCEMENT  
DIVISION**

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Division Director

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**PROJECT NO. 52786**

**CERTIFICATE OF SERVICE**

I certify that notice of filing of this document was provided to all parties of record via electronic mail on December 17, 2021 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Courtney Dean  
Courtney N. Dean